

State of Maryland Frequently Asked Questions for Non-entitlement Units of Local Government

Updated on November 9, 2021

This resource addresses policy questions related to the Coronavirus Local Fiscal Recovery Funds (CLFRF) program and includes questions raised by Non-entitlement Units of Local Government (NEUs) in Maryland, as well as questions Maryland NEUs have asked that correspond to those published in the US Treasury's [Frequently Asked Questions](#) document. Please note that information relating to questions raised by NEUs in Maryland has been made anonymous.

The State of Maryland encourages NEUs to reference the US Treasury's [Interim Final Rule](#), [Frequently Asked Questions](#), and [Compliance and Reporting Guidance](#) documents for further guidance.

Responses are based on current U.S. Treasury guidance, which is subject to change. Responses do not constitute a determination of eligibility from the State of Maryland or signify what and how NEUs should use CLFRF. As a recipient of Federal funds, each NEU is responsible for administration and compliance of CLFRF.

Compliance

1. May recipients fund a project with both ARPA funds and other sources of funding? (Treasury FAQ 4.10)

Cost sharing or matching funds are not required under CLFRF. Funds may be used in conjunction with other funding sources, provided that the costs are eligible costs under each source program and are compliant with all other related statutory and regulatory requirements and policies. The recipient must comply with applicable reporting requirements for all sources of funds supporting the CLFRF projects, and with any requirements and restrictions on the use of funds from the supplemental funding sources and the CLFRF program.

Specifically,

- All funds provided under the CLFRF program must be used for projects, investments, or services that are eligible under the CLFRF statute, Treasury's Interim Final Rule, and guidance. See 31 CFR 35.6-8; FAQ 4.6. CLFRF funds may not be used to fund an activity that is not, in its entirety, an eligible use under the CLFRF statute, Treasury's Interim Final Rule, and guidance. For example,
 - CLFRF funds may be used in conjunction with other sources of funds to make an investment in water infrastructure, which is eligible under the CLFRF statute, and Treasury's Interim Final Rule.
 - CLFRF funds could not be used to fund the entirety of a water infrastructure project that was partially, although not entirely, an eligible use under Treasury's Interim Final Rule. However, the recipient could use CLFRF funds only for a smaller component project that does constitute an eligible use, while using other funds for the remaining portions of the larger planned water infrastructure project that do not constitute an eligible use. In this case, the "project" under this program would be only the eligible use component of the larger project.
- In addition, because CLFRF funds must be obligated by December 31, 2024, and expended by December 31, 2026, recipients must be able to, at a minimum, determine and report to Treasury on the amount of CLFRF funds obligated and expended and when such funds were obligated and

expended.¹

2. May recipients pool funds for regional projects? (Treasury FAQ 4.9)

Yes, provided that the project is itself an eligible use of funds and that recipients can track the use of funds in line with the reporting and compliance requirements of the CLFRF. In general, when pooling funds for regional projects, recipients may expend funds directly on the project or transfer funds to another government that is undertaking the project on behalf of multiple recipients. To the extent recipients undertake regional projects via transfer to another government, recipients would need to comply with the rules on transfers specified in the Interim Final Rule, Section V. A recipient may transfer funds to a government outside its boundaries (e.g., county transfers to a neighboring county), provided that the recipient can document that its jurisdiction receives a benefit proportionate to the amount contributed.²

3. What are the bidding requirements for purchases using ARPA funds?

Bidding and procurement guidelines for items funded with CLFRF must follow the regulations set forth in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Part 200 (the Uniform Guidance).³

Specifically for instances when you require a bid, “recipients are responsible for ensuring that any procurement using CLFRF, or payments under procurement contracts using such funds are consistent with the procurement standards set forth in the Uniform Guidance at 2 CFR 200.317 through 2 CFR 200.327, as applicable. The Uniform Guidance establishes in 2 CFR 200.319 that all procurement transactions for property or services must be conducted in a manner providing full and open competition, consistent with standards outlined in 2 CFR 200.320, which allows for non-competitive procurements only in circumstances where at least one of the conditions below is true: the item is below the micro-purchase threshold; the item is only available from a single source; the public exigency or emergency will not permit a delay from publicizing a competitive solicitation; or after solicitation of a number of sources, competition is determined inadequate. Recipients must have and use documented procurement procedures that are consistent with the standards outlined in 2 CFR 200.317 through 2 CFR 200.320. The Uniform Guidance requires an infrastructure for competitive bidding and contractor oversight, including maintaining written standards of conduct and prohibitions on dealing with suspended or debarred parties. Your organization must ensure adherence to all applicable local, State, and federal procurement laws and regulations.”⁴

4. If a use of funds is not explicitly permitted in the Interim Final Rule as a response to the public health emergency and its negative economic impacts, does that mean it is prohibited? (Treasury FAQ 2.3)

The Interim Final Rule contains a non-exclusive list of programs or services that may be funded as responding to COVID-19 or the negative economic impacts of the COVID-19 public health emergency, along with considerations for evaluating other potential uses of CLFRF not explicitly listed. The Interim Final Rule also provides flexibility for recipients to use Fiscal Recovery Funds for programs or

¹ Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions (as of July 19, 2021) – FAQ #4.10, available at: <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>.

² Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions (as of July 19, 2021) – FAQ #4.9, available at: <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>.

³ Treasury Compliance and Reporting Guidance, Part 1, Section D.
<https://home.treasury.gov/system/files/136/SLFRF-Compliance-and-Reporting-Guidance.pdf>

⁴ Ibid

services that are not identified on these non-exclusive lists, but which meet the objectives of section 602(c)(1)(A) or 603(c)(1)(A) by responding to the COVID-19 public health emergency with respect to COVID-19 or its negative economic impacts.⁵

5. Can an NEU spend Funds to support a non-profit that does not operate within the jurisdiction of the NEU?

The Interim Final Rule does not provide clear guidance on whether municipalities may appropriate funds from their CLFRF allocations to non-profits that do not operate within the municipality.

The section that discusses assistance to non-profits mentions several types of assistance to small businesses and non-profits that can be eligible uses for CLFRF, alongside other forms of economic assistance. This section does not explicitly mention any jurisdictional limitations.⁶

However, as noted in the question, at several points the Interim Final Rule makes reference to the funds being targeted. The Introduction of the Interim Final Rule says that “the Fiscal Recovery Funds are intended to provide support to State, local, and Tribal governments (together, recipients) in responding to the impact of COVID-19 and in their efforts to contain COVID-19 in their communities, residents, and businesses”.⁷ The Interim Final Rule later states that “benefits are achieved in the Interim Final Rule through a broadly flexible approach that sets clear guidelines on eligible uses of Fiscal Recovery Funds and provides State, local, and Tribal government officials discretion within those eligible uses to direct Fiscal Recovery Funds to areas of greatest need within their jurisdiction”.⁸

These references leave open the question of whether it is assumed that all funding allocated by the municipality must be made within its boundaries, or at least that the funds expended are required to have proportional benefits within its boundaries.

6. Can non-profit or private organizations receive funds? If so, how? (Treasury FAQ 1.8)

Yes. Under section 602(c)(3) of the Social Security Act, a State, territory, or Tribal government may transfer funds to a “private nonprofit organization . . . , a Tribal organization . . . , a public benefit corporation involved in the transportation of passengers or cargo, or a special-purpose unit of State or local government.” Similarly, section 603(c)(3) authorizes a local government to transfer funds to the same entities (other than Tribal organizations). The Interim Final Rule clarifies that the lists of transferees in sections 602(c)(3) and 603(c)(3) are not exclusive, and recipients may transfer funds to constituent units of government or private entities beyond those specified in the statute. A transferee receiving a transfer from a recipient under sections 602(c)(3) and 603(c)(3) will be considered to be a subrecipient and will be expected to comply with all subrecipient reporting requirements.

⁵ Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions (as of July 19, 2021) – FAQ #2.3, available at: <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>.

⁶ Coronavirus State and Local Fiscal Recovery Funds Interim Final Rule, pages 31-38, accessible at [Interim Final Rule \(treasury.gov\)](https://www.treasury.gov/interim-final-rule)

⁷ Coronavirus State and Local Fiscal Recovery Funds Interim Final Rule, page 6, accessible at [Interim Final Rule \(treasury.gov\)](https://www.treasury.gov/interim-final-rule)

⁸ Coronavirus State and Local Fiscal Recovery Funds Interim Final Rule, page 118, accessible at [Interim Final Rule \(treasury.gov\)](https://www.treasury.gov/interim-final-rule)

The American Rescue Plan Act (ARPA) does not authorize Treasury to provide CLFRF directly to nonprofit or private organizations. Thus, non-profit or private organizations should seek funds from CLFRF recipient(s) in their jurisdiction (e.g., a State, local, territorial, or Tribal government).⁹

7. May recipients use funds to pay interest or principal on outstanding debt? (Treasury FAQ 4.3)

No. Expenses related to financing, including servicing or redeeming notes, would not address the needs of pandemic response or its negative economic impacts. Such expenses would also not be considered provision of government services, as these financing expenses do not directly provide services or aid to citizens.

This applies to paying interest or principal on any outstanding debt instrument, including, for example, short-term revenue or tax anticipation notes, or paying fees or issuance costs associated with the issuance of new debt.¹⁰

8. Who is subject to the Single Audit?

A non-federal entity – whether as a direct recipient of federal funds or as a subrecipient of federal funds – that expends \$750,000 or more in federal awards within the non-federal entity’s fiscal year must complete a single audit. In this setting, expend means not just the direct, incurred costs under a federal award or loan, but also the receipt of property or supplies from the federal government¹¹, disbursement of funds to recipients, federal loans, proceeds of federally funded insurance, federally funded restricted endowments, or program income generated by federal award(s).

These expenses must be reported on a Schedule of Expenditures of Federal Awards (SEFA), submitted as a supplemental schedule to the organization’s financial statements, and organized and listed separately by federal program. Each federal program must be identified by the CFDA or Assistance Listing number, or other unique identifier. An organization’s SEFA, along with its financial statements, is used to determine whether an organization meets the threshold for single audit.

9. What is the Single Audit?

The Single Audit is a tool for the federal government to provide oversight of non-federal entities that receive federal financial assistance and ensure that federal dollars are being spent appropriately and in compliance with federal law, policy, and guidance. Defined by 2 CFR 200 Subpart F, single audits are annual routines with two primary goals:

- Did the organization receiving federal funding adhere to the terms and conditions of the specific funding source(s) they received, including meeting the objectives of the program(s)?
- Does the organization have effective internal controls¹² to manage and administer federal funds?

⁹ Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions (as of July 19, 2021) – FAQ #1.8, available at: <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>.

¹⁰ Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions (as of July 19, 2021) – FAQ #4.3, available at: <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>.

¹¹ For COVID-19 relief, the federal government distributed personal protective equipment (PPE) as donations without additional compliance restrictions or CFDA number, and therefore should not be included in the SEFA as expenses. Instead, non-federal entities should include the estimated fair market value of donated PPE at the time of receipt as a stand-alone footnote to their SEFA. Because donated PPE has no bearing on the Single Audit, the donated PPE footnote may be marked “unaudited.”

¹² 2 CFR 200.303

Auditors utilize the framework established by the Federal Office of Management and Budget – generally issued as an Annual Compliance Supplement¹³ – to establish risk factors, testing criteria, and process to complete their assessment.

It's important to note that single audits are one of many types of audits of federal awards, and are often used as a risk assessment on whether additional audits, like a Federal Office of Inspector General (OIG) audit, may be necessary. Findings from audits are public, except for Indian Tribes, Tribal Organizations, or in cases exempt by statute, and published by the Federal Audit Clearinghouse (FAC).

10. What are the responsibilities of recipients of federal funds under the Single Audit requirement?

As a recipient or subrecipient of federal funds, a non-federal entity must:

- Procure or otherwise arrange for auditors to review, prepare, and submit financial statements when due. Note that procurement of auditors is subject to procurement and contracting requirements outlined in 2 CFR 200.317-327.
- Prepare appropriate financial statements, including the SEFA, as part of the closure of a fiscal year.
- Provide auditors with access to personnel, accounts, books, records, supporting documentation, and other information as needed for the auditor to perform the review. Organizations should be able to provide documents pertaining to internal controls, such as a policies and procedures guide, for the management and administration of federal awards.
- Promptly follow up and take corrective action on audit findings, including reporting on the status of corrective actions as required.
- Submit the reports, and required supporting documentation, on time – either within 30 days of the auditor's reports, or nine months from the end of the fiscal year, whichever is earlier.

Economic Impact

11. Are physical improvements considered an eligible use of funds for small businesses?

Loans and grants to mitigate financial hardship from periods of business closure or declines in revenue due to the pandemic by supporting payroll and benefits, mortgages or rent, and other operating costs, or to implement COVID-19 mitigation and prevention tactics including physical changes to enable social distancing and enhanced cleaning efforts, are both eligible under the Interim Final Rule. Such support should respond to the specific negative economic impact of COVID-19.¹⁴

Municipalities can also provide technical assistance, counseling, and other business planning related services.¹⁵

Additionally, municipalities may provide aid to support safe reopening of businesses in the tourism, travel, and hospitality industries and to business districts that were closed during the COVID-19

¹³ For the more than \$3 trillion in additional federal funding made available for COVID-19 relief programs in 2020, rules for were published in the 2020 Appendix XI Compliance Supplement and Addendum.

¹⁴ Treas. Reg. 35 CFR 31 at page 34, available at: <https://home.treasury.gov/system/files/136/FRF-Interim-Final-Rule.pdf>

¹⁵ Ibid.

public health emergency, as well as aid for a planned expansion or upgrade of tourism, travel, and hospitality facilities delayed due to the pandemic.¹⁶

12. Would investments in improving outdoor spaces (e.g. parks) be an eligible use of funds as a response to the public health emergency and/or its negative economic impacts? (Treasury FAQ 2.18)

There are multiple ways that investments in improving outdoor spaces could qualify as eligible uses; several are highlighted below, though there may be other ways that a specific investment in outdoor spaces would meet eligible use criteria.

First, in recognition of the disproportionate negative economic impacts on certain communities and populations, the Interim Final Rule identifies certain types of services that are eligible uses when provided in a Qualified Census Tract (QCT), to families and individuals living in QCTs, or when these services are provided by Tribal governments. Recipients may also provide these services to other populations, households, or geographic areas disproportionately impacted by the pandemic.

These programs and services include services designed to build stronger neighborhoods and communities and to address health disparities and the social determinants of health. The Interim Final Rule provides a non-exhaustive list of eligible services to respond to the needs of communities disproportionately impacted by the pandemic, and recipients may identify other uses of funds that do so, consistent with the Rule's framework. For example, investments in parks, public plazas, and other public outdoor recreation spaces may be responsive to the needs of disproportionately impacted communities by promoting healthier living environments and outdoor recreation and socialization to mitigate the spread of COVID-19.

Second, recipients may provide assistance to small businesses in all communities. Assistance to small businesses could include support to enhance outdoor spaces for COVID-19 mitigation (e.g., restaurant patios) or to improve the built environment of the neighborhood (e.g., façade improvements).

Third, many governments saw significantly increased use of parks during the pandemic that resulted in damage or increased maintenance needs. The Interim Final Rule recognizes that "decrease[s] to] a state or local government's ability to effectively administer services" can constitute a negative economic impact of the pandemic.¹⁷

13. How can recipients use funds to assist the travel, tourism, and hospitality industries? (Treasury FAQ 2.9)

Aid provided to tourism, travel, and hospitality industries should respond to the negative economic impacts of the pandemic. For example, a recipient may provide aid to support safe reopening of businesses in the tourism, travel and hospitality industries and to districts that were closed during

¹⁶ Ibid at page 10.

¹⁷ Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions (as of July 19, 2021) – FAQ #2.18, available at: <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>.

the COVID-19 public health emergency, as well as aid a planned expansion or upgrade of tourism, travel and hospitality facilities delayed due to the pandemic.¹⁸

14. Would modifying an existing Home Repair Loan Assistance Program to offer 100% repair grants be an eligible use?

Assistance to households facing negative economic impacts due to COVID-19 is an eligible use of CLFRF, and grants for home repairs are listed as a potentially eligible form of assistance.¹⁹ For each grant to a household, the municipality must consider “whether, and the extent to which, the household [in other words, the grantee] has experienced a negative economic impact from the pandemic” and “must be reasonably proportional to the negative economic impact that they are intended to address”.²⁰ Failing to meet both of these criteria would result in the grant potentially being considered ineligible.

15. During the course of the pandemic, children's education and vocational training was impacted. Can this fund be used to provide the necessary services and training programs to bring youth to a higher level of skills training?

Part 1 - Educational Services

Depending on the type of education program that you are considering, as well as the intended beneficiaries, you may be able to consider its provision as an eligible use if it addresses educational disparities that have been exacerbated due to the COVID-19 public health emergency. If these services are not addressing educational disparities exacerbated by the pandemic, they may also be eligible for funding under additional categories described further below. Both the type of service and the intended beneficiaries are key to understanding what category of eligible uses best supports the goals of your program.

Treasury will presume that certain types of services, including addressing educational disparities that may have been exacerbated by the pandemic, are eligible uses when provided in a Qualified Census Tract and to families and individuals living in Qualified Census Tracts. Recipients can also provide these services to other populations, households or geographies disproportionately impacted by the pandemic, but must justify the determination that the pandemic resulted in disproportionate public health or economic outcomes for the population, households, or geographic areas.²¹

Services listed as eligible to address educational disparities include “new, expanded, or enhanced early learning services, including prekindergarten, Head Start, or partnerships between pre-kindergarten programs and local education authorities, or administration of those services; providing assistance to high-poverty school districts to advance equitable funding across districts and geographies; evidence-based educational services and practices to address the academic needs of students, including tutoring, summer, afterschool, and other extended learning and enrichment programs; and evidence-based practices to address the social, emotional, and mental health needs of students”.²²

¹⁸ Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions (as of July 19, 2021) – FAQ #2.9, available at: <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>.

¹⁹ Treas. Reg. 35 CFR 31 at page 33, available at: <https://home.treasury.gov/system/files/136/FRF-Interim-Final-Rule.pdf>

²⁰ Ibid.

²¹ Interim Final Rule at pg 6, available at: <https://www.govinfo.gov/content/pkg/FR-2021-05-17/pdf/2021-10283.pdf>

²² Ibid at pg 11.

Additionally, any aspect of the provision of these services that directly responds to the public health emergency by mitigating and preventing the spread of COVID-19 can also be considered as an eligible use. As is stated in Treasury's Interim Final Rule, "mitigation and prevention efforts for COVID-19 include support for prevention, mitigation, or other services in key settings like schools; ventilation improvements in congregate settings, health care settings, or other key locations. They also include capital investments in public facilities to meet pandemic operational needs, such as physical plant improvements to public hospitals and health clinics or adaptations to public buildings to implement COVID-19 mitigation tactics".²³

If neither of the above categories apply, the program may also be funded using the revenue replacement provision of the CLFRF program. Recipients may use funding "for the provision of government services to the extent of the reduction in revenue due to the COVID-19 public health emergency".²⁴

Part 2 - Vocational Training Programs

Vocational training programs can also be funded under the provision that allows recipients to directly respond to negative impacts caused by the pandemic. If any of these services are addressing the pandemic's disparate impact on certain populations or geographies, these programs may also be eligible.

Generally, recipients may not use funds for general economic development or workforce development except in certain scenarios. The recipient must ensure that the program is designed to address an economic harm resulting from or exacerbated by the pandemic. Assistance or aid to individuals that did not experience a negative economic impact from the public health emergency would not be an eligible use under this category.²⁵

The FAQ for CLFRF states that assistance to unemployed workers includes "subsidized jobs, including for young people; summer youth employment programs that directly address the negative economic impacts of the pandemic on young people and their families and communities; programs that provide workforce readiness training, apprenticeship or pre apprenticeship opportunities, skills development, placement services, and/or coaching and mentoring; and associated wraparound services, including for housing, health care, and food".

Additionally, the Interim Final Rule permits a broad range of services to unemployed or underemployed workers and other individuals that suffered negative economic impacts from the pandemic, including "public jobs programs, subsidized employment, combined education and on-the-job training programs, or job training to accelerate rehiring or address negative economic or public health impacts experienced due to a worker's occupation or level of training. The broad range of permitted services can also include other employment supports, such as childcare assistance or assistance with transportation to and from a jobsite or interview".²⁶

²³ Interim Final Rule at pg 5, available at: <https://www.govinfo.gov/content/pkg/FR-2021-05-17/pdf/2021-10283.pdf>

²⁴ Ibid at pg 14.

²⁵ Ibid at pg 6-8.

²⁶ Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions (as of July 19, 2021) – FAQ #2.16, available at: <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>.

If none of the above categories apply vocational training services may also be funded using the revenue replacement provision of the CLFRF program. Recipients may use funding “for the provision of government services to the extent of the reduction in revenue due to the COVID-19 public health emergency”.²⁷

16. May recipients use funds for general economic development or workforce development? (Treasury FAQ 2.8)

Recipients must demonstrate that funding uses directly address a negative economic impact of the COVID-19 public health emergency, including funds used for economic or workforce development. For example, job training for unemployed workers may be used to address negative economic impacts of the public health emergency and be eligible.²⁸

17. May recipients use funds to establish a public jobs program? (Treasury FAQ 2.16)

Yes. The Interim Final Rule permits a broad range of services to unemployed or underemployed workers and other individuals that suffered negative economic impacts from the pandemic. That can include public jobs programs, subsidized employment, combined education and on-the-job training programs, or job training to accelerate rehiring or address negative economic or public health impacts experienced due to a worker’s occupation or level of training. The broad range of permitted services can also include other employment supports, such as childcare assistance or assistance with transportation to and from a jobsite or interview.

The Interim Final Rule includes as an eligible use re-hiring public sector staff up to the government’s level of pre-pandemic employment. “Public sector staff” would not include individuals participating in a job training or subsidized employment program administered by the recipient.²⁹

Infrastructure - Water/Sewer/Broadband

18. What types of broadband projects are eligible? (Treasury FAQ 6.5)

The Interim Final Rule requires eligible projects to reliably deliver minimum speeds of 100 Mbps download and 100 Mbps upload. In cases where it is impracticable due to geography, topography, or financial cost to meet those standards, projects must reliably deliver at least 100 Mbps download speed, at least 20 Mbps upload speed, and be scalable to a minimum of 100 Mbps download speed and 100 Mbps upload speed.

Projects must also be designed to serve unserved or underserved households and businesses, defined as those that are not currently served by a wireline connection that reliably delivers at least 25 Mbps download speed and 3 Mbps of upload speed.³⁰

Please consult the State of Maryland’s Office of Statewide Broadband’s [website](#) for additional information on State-led efforts to implement and improve broadband access as well as opportunities to partner with the State on broadband initiatives.

²⁷ Interim Final Rule at pg 14, available at: <https://www.govinfo.gov/content/pkg/FR-2021-05-17/pdf/2021-10283.pdf>

²⁸ Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions (as of July 19, 2021) – FAQ #2.8, available at: <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>.

²⁹ Ibid at FAQ #2.16

³⁰ Ibid at FAQ #6.5

19. What types of water and sewer projects are eligible uses of funds? (Treasury FAQ 6.1)

The Interim Final Rule generally aligns eligible uses of the Funds with the wide range of types or categories of projects that would be eligible to receive financial assistance through the Environmental Protection Agency's [Clean Water State Revolving Fund](#) (CWSRF) or [Drinking Water State Revolving Fund](#) (DWSRF).

Under the DWSRF, categories of eligible projects include: treatment, transmission and distribution (including lead service line replacement), source rehabilitation and decontamination, storage, consolidation, and new systems development.

Under the CWSRF, categories of eligible projects include: construction of publicly-owned treatment works, nonpoint source pollution management, national estuary program projects, decentralized wastewater treatment systems, stormwater systems, water conservation, efficiency, and reuse measures, watershed pilot projects, energy efficiency measures for publicly-owned treatment works, water reuse projects, security measures at publicly-owned treatment works, and technical assistance to ensure compliance with the Clean Water Act.³¹

As mentioned in the Interim Final Rule, eligible projects under the DWSRF and CWSRF also generally support efforts to address climate change, as well as to meet cybersecurity needs to protect water and sewer infrastructure. For example, by taking steps to manage potential sources of pollution and preventing these sources from reaching sources of drinking water, projects eligible under the DWSRF and the ARPA may reduce energy required to treat drinking water. Similarly, projects eligible under the CWSRF include measures to conserve and reuse water or reduce the energy consumption of public water treatment facilities. Treasury encourages recipients to consider green infrastructure investments and projects to improve resilience to the effects of climate change. For example, more frequent and extreme precipitation events combined with construction and development trends have led to increased instances of stormwater runoff, water pollution, and flooding. Green infrastructure projects that support stormwater system resiliency could include rain gardens that provide water storage and filtration benefits, and green streets, where vegetation, soil, and engineered systems are combined to direct and filter rainwater from impervious surfaces.³²

20. How do I know if a water, sewer, or broadband project is an eligible use of funds? Do I need pre-approval? (Treasury FAQ 6.7)

Recipients do not need approval from Treasury to determine whether an investment in a water, sewer, or broadband project is eligible under CLFRF. Each recipient should review the entire Interim Final Rule (IFR), Frequently Asked Questions, and other relevant programmatic guidance in order to make its own assessment of whether its intended project meets the eligibility criteria in the IFR. A recipient that makes its own determination that a project meets the eligibility criteria as outlined in the IFR may pursue the project as a CLFRF project without pre-approval from Treasury. Local government recipients similarly do not need state approval to determine that a project is eligible under CLFRF. Recipients should be cognizant of other federal or state laws or regulations that may apply to construction projects independent of CLFRF funding conditions and that may require pre-approval under those federal or state laws or regulations.

³¹ Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions (as of July 19, 2021) – FAQ #6.1, available at: <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>.

³² Interim Final Rule at pg 18, available at: <https://www.govinfo.gov/content/pkg/FR-2021-05-17/pdf/2021-10283.pdf>

For water and sewer projects, the IFR refers to the EPA Drinking Water and Clean Water State Revolving Funds (SRFs) for the categories of projects and activities that are eligible for funding. Recipients should look at the relevant federal statutes, regulations, and guidance issued by the EPA to determine whether a water or sewer project is eligible. Of note, the IFR does not incorporate any other requirements contained in the federal statutes governing the SRFs or any conditions or requirements that individual states may place on their use of SRFs.³³

21. What are the rules on eligible uses of funds surrounding well water projects?

According to the U.S. Treasury's Interim Final Rule, and FAQ 6.1, "The Interim Final Rule generally aligns eligible uses of the Funds with the wide range of types or categories of projects that would be eligible to receive financial assistance through the Environmental Protection Agency's [Clean Water State Revolving Fund](#) (CWSRF) or [Drinking Water State Revolving Fund](#) (DWSRF)."³⁴

The DWSRF lists eligible projects that correspond to a wide range of categories such as: "treatment, transmission and distribution (including lead service line replacement), source rehabilitation and decontamination, storage, consolidation, and new systems development"³⁵. Specific projects relating to municipal water connections, water purification systems, and other drinking water improvements may be eligible for DWSRF funding under various criteria, depending on the project.

Municipalities must use the eligibility criteria for CWSRF and DWSRF in conjunction with any other restrictions from the Interim Final Rule to make their own eligibility determination.³⁶ For further clarity regarding specific project eligibility for these programs, we recommend reaching out to the EPA. Questions should be submitted on the program sites for the [CWSRF](#) or [DWSRF](#)

22. Can funds be used to complete water/infrastructure projects that are already underway?

Potentially, as the project must be eligible under the Interim Final Rule and must align to the covered period. Recipients of CLFRF may utilize funding to complete certain water and sewer projects that were ongoing as of March 3rd, 2021 (i.e., the beginning of the "covered period").

The Interim Final Rule notes that, "With respect to wastewater infrastructure, recipients may use CLFRF to construct publicly owned treatment infrastructure, manage and treat stormwater or subsurface drainage water, facilitate water reuse, and secure publicly owned treatment works, among other uses."³⁷ The eligibility of specific projects related to eligible water and sewer infrastructure, including for water reuse, are tied to the Drinking Water State Revolving Fund ("DWSRF") and Clean Water State Revolving Fund ("CWSRF"). Guidelines for expenditures relating to each project also must be in alignment with the guidelines for CWSRF or DWSRF (whichever is applicable for the project).³⁸

³³ Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions (as of July 19, 2021) – FAQ #6.7, available at: <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>.

³⁴ U.S. Treasury's FAQ 6.1 p. 27-28 available at: <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>

³⁵ Ibid.

³⁶ Ibid at FAQ 6.17

³⁷ U.S. Department of the Treasury, Reg. 31 CFR 35 at 63, available at: <https://home.treasury.gov/system/files/136/FRF-Interim-Final-Rule.pdf>.

³⁸ Ibid.

The types of projects eligible for CWSRF include:

- Projects to construct, improve, and repair wastewater treatment plants,
- Control non-point sources of pollution,
- Improve the resilience of infrastructure to severe weather events,
- Create green infrastructure, and
- Protect water bodies from pollution.³⁹

The types of DWSRF projects that are eligible:

Assist communities in making water infrastructure capital improvements, including the installation and replacement of failing treatment and distribution systems. In administering these programs, States must give priority to projects that:

- Ensure compliance with applicable health and environmental safety requirements
- Address the most serious risks to human health, and
- Assist systems most in need on a per household basis according to State affordability criteria.⁴⁰

Treasury considers the beginning of the covered period for purposes of determining compliance with section 602(c)(2)(A) to be the relevant reference point for this purpose. The Interim Final Rule thus permits funds to be used to cover costs incurred beginning on March 3, 2021.. Permitting CLFRF to be used to cover costs incurred beginning on this date will also mean that recipients that began incurring costs in the anticipation of enactment of the ARPA and in advance of the issuance of this rule and receipt of payment from the CLFRF would likely be able to cover them using these payments.⁴¹

23. May recipients use funds for road repairs and upgrades that occur in connection with an eligible water or sewer project? (Treasury FAQ 6.15)

Yes, recipients may use CLFRF for road repairs and upgrades directly related to an eligible water or sewer project. Water and sewer infrastructure projects are often a single component of a broader transportation infrastructure project. For example, a recipient could use CLFRFs to repair or re-pave a road following eligible sewer repair work beneath it. However, the use of CLFRFs for general infrastructure projects is subject to the limitations described in [Treasury's FAQ 4.2](#). In this example, only the components of the broader infrastructure project that interact directly with the stormwater infrastructure project may be funded with CLFRFs.⁴² Recipients would need to secure additional funding sources (non-CLFRF) to support the rest of the project.

Infrastructure - Other

24. May recipients use funds to invest in infrastructure other than water, sewer, and broadband projects (e.g. roads, public facilities, sidewalks)? (Treasury FAQ 4.2)

Under 602(c)(1)(A) or 603(c)(1)(A), a general infrastructure project typically would not be considered a response to the public health emergency and its negative economic impacts unless the project responds to a specific pandemic-related public health need (e.g., investments in facilities for the

³⁹ U.S. Department of the Treasury, Reg. 31 CFR 35 at 63-69, available at: <https://home.treasury.gov/system/files/136/FRF-Interim-Final-Rule.pdf>.

⁴⁰ Ibid

⁴¹ Ibid at pg 124.

⁴² Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions (as of July 19, 2021) – FAQ #6.15, available at: <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>.

delivery of vaccines) or a specific negative economic impact of the pandemic (e.g., affordable housing in a Qualified Census Tract).⁴³

Additionally, under 602(c)(1)(C) or 603(c)(1)(C), recipients may use funds for maintenance of infrastructure or pay-go spending for building of new infrastructure as part of the general provision of government services, to the extent of the estimated reduction in revenue due to the public health emergency. The key here is that recipients must have revenue loss consistent with Treasury's definition and methodology.

25. Are virtual meeting IT, software upgrades, and website upgrades considered an allowable use of funds?

Depending on the goals of each project, it may be possible to use CLFRFs to support upgrades to technology. For example, if a municipality has determined that virtual meetings for staff can stop the spread of COVID-19 by reducing in-person interactions, then CLFRFs can be used to support these upgrades. More broadly, if recipients have identified technology upgrades that respond to the public health emergency by mitigating COVID-19, then these upgrades can be funded with CLFRFs.

However, if technology upgrades are not in direct response to the pandemic, recipients can also support technology upgrades through the provision of government services to the extent of the reduction in revenue experienced due to the COVID-19 public health emergency.⁴⁴ If a municipality has experienced lost public sector revenue as a result of the pandemic, then it can use CLFRFs program funds to make up any lost revenue over the period of the COVID-19 emergency. These funds can then be allocated for the 'general provision of government services', a category that would include technology upgrades such as the ones described above.

Please consult question 37 on this document to view Treasury's formula for calculating lost revenue.

26. Would Information Technology Improvements (such as GIS) be included as part of a water/sewer infrastructure project?

The Interim Final Rule has generally aligned the eligible use guidelines for water, stormwater and sewer systems with the eligibility criteria for the Environmental Protection Agency's Clean Water State Revolving Fund (CWSRF) and Drinking Water State Revolving Fund (DWSRF).⁴⁵

Eligible project categories under the CWSRF include construction of publicly-owned treatment works, nonpoint source pollution management, national estuary program projects, decentralized wastewater treatment systems, stormwater systems, water conservation, efficiency, and reuse measures, watershed pilot projects, energy efficiency measures for publicly-owned treatment works, water reuse projects, security measures at publicly-owned treatment works, and technical assistance to ensure compliance with the Clean Water Act.

⁴³ Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions (as of July 19, 2021) – FAQ #4.2, available at: <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>.

⁴⁴ Interim Final Rule at pg 14, available at: <https://www.govinfo.gov/content/pkg/FR-2021-05-17/pdf/2021-10283.pdf>

⁴⁵ Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions (as of July 19, 2021) – FAQ #6.1, available at: <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>.

Eligible project categories under the DWSRF include treatment, transmission and distribution (including lead service line replacement), source rehabilitation and decontamination, storage, consolidation, and new systems development.

Municipalities must use the eligibility criteria for CWSRF and DWSRF in conjunction with any other restrictions from the Interim Final Rule to make their own eligibility determination.⁴⁶

Please note that the Interim Final Rule does not incorporate any other requirements in the federal statutes governing SRFs, and simply uses their eligibility criteria.⁴⁷

27. Are renovations to public buildings an eligible use of funds?

Under 602(c)(1)(C) or 603(c)(1)(C), recipients may use CLFRF program funds for maintenance of infrastructure or pay-go spending for building of new infrastructure as part of the general provision of government services, to the extent of the estimated reduction in revenue due to the public health emergency.⁴⁸ For more information on how to calculate lost revenue, please see the Treasury's Interim Final Rule and FAQ.

A general infrastructure project typically would not be considered a response to the public health emergency and its negative economic impacts unless the project responds to a specific pandemic-related public health need (e.g., investments in facilities for the delivery of vaccines) or a specific negative economic impact of the pandemic (e.g., affordable housing in a Qualified Census Tract).⁴⁹

Please note that there are broad areas of additional eligibility in Qualified Census Tracts (QCTs) that are meant to address economic disparities amplified by COVID-19 and the disproportionate impact on certain communities and populations. These additional areas of eligibility include "Building Stronger Communities through Investments in Housing and Neighborhoods" (a category whose examples include affordable housing development, housing vouchers, and services that address the needs of the homeless), "Addressing Educational Disparities", and "Promoting Healthy Childhood Environments".⁵⁰ However, as the FAQ cited above indicates, the Interim Final Rule states that infrastructure projects are outside the areas of additional eligibility for QCTs unless they respond to a specific pandemic public health need or a specific negative economic impact of the sort that would fall into the three expressly permitted categories.

28. Are sanitation equipment (trash trucks) and public safety equipment (police cars) eligible expenditures?

Both garbage trucks and police cars are eligible uses under the revenue loss clause. Under this clause, a municipality can use funds that are designated to replace its lost revenue (should such lost revenue exist). These funds can then be allocated for the 'general provision of government services',⁵¹ a category that would certainly include either garbage trucks or police cars. For more information

⁴⁶ Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions (as of July 19, 2021) – FAQ #6.7, available at: <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>.

⁴⁷ Ibid.

⁴⁸ Interim Final Rule at pg 14, available at: <https://www.govinfo.gov/content/pkg/FR-2021-05-17/pdf/2021-10283.pdf>

⁴⁹ Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions (as of July 19, 2021) – FAQ #4.2, available at: <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>.

⁵⁰ Treas. Reg. 35 CFR 31 at 38-41, available at: <https://home.treasury.gov/system/files/136/FRF-Interim-Final-Rule.pdf>.

⁵¹ Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions (as of July 19, 2021) – FAQ #3.8, available at: <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>.

on the revenue loss calculation and determining whether your municipality can be considered to have lost revenue over the period of the pandemic, see pages 56-59 of the Interim Final Rule.

It is worth noting that certain sanitation and public safety costs related to COVID-19 are eligible uses under CLFRF's eligibility categories other than revenue loss. For example, the payroll for public safety workers whose "services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency" is an eligible expense under CLFRF.⁵² Sanitation equipment relating directly to mitigating the COVID-19 public health emergency and vaccination programs would likely be eligible as well.

Additionally, "decrease[s to] a state or local government's ability to effectively administer services" due to increased demand for their services during and due to the pandemic may be eligible, although this justification is only discussed explicitly in the context of park maintenance.⁵³ It may be possible to argue that this clause allows for the impacts of the pandemic on the ability for the municipality to effectively administer services as an eligible use, but it does not list capital expenses such as garbage trucks and police cars as examples. Moreover, if this justification were to be used for eligible expenses consistent with U.S. Treasury guidance, it must be argued that these expenses are necessary to restore pre-pandemic levels of service, as this clause refers specifically to areas where service has declined specifically due to the pandemic. This clause does not appear to be designed to be an opportunity to make capital investments to improve service above pre-pandemic levels.

29. What are the differences in rules governing infrastructure spending for maintenance and improvements to infrastructure vs spending for the construction of new infrastructure?

There are several areas of infrastructure eligibility allowed under the Interim Final Rule. According to the Rule, eligibility for water and sewer infrastructure projects is aligned "with the wide range of types or categories of projects that would be eligible to receive financial assistance through the EPA's CWSRF or DWSRF."⁵⁴

CWSRF and DWSRF eligibility are limited to capital projects and expenditures. As such, maintenance activities are not eligible expenses under these programs.⁵⁵⁵⁶

Certain improvements to existing infrastructure may be eligible. The DWSRF eligibility handbook, which ties eligibility to 2 CFR Part 200.13's definition of capital expenditures, defines the breadth of potentially eligible capital expenditures to include "expenditures to acquire capital assets or expenditures to make additions, improvements, modifications, replacements, rearrangements,

⁵² Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions (as of July 19, 2021) – FAQ #2.14, available at: <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>. See also FAQ #2.15

⁵³ Ibid at FAQ #4.8. See also FAQ #2.15 & #4.8

⁵⁴ Ibid at FAQ #6.7

⁵⁵ Environmental Protection Agency Overview of CWSRF Eligibilities, pg 4, available at https://www.epa.gov/sites/default/files/2016-07/documents/overview_of_cwsrf_eligibilities_may_2016.pdf

⁵⁶ Environmental Protection Agency DWSRF Eligibility Handbook, pg 17, available at https://www.epa.gov/sites/default/files/2017-06/documents/dwsrf_eligibility_handbook_june_13_2017_updated_508_version.pdf

reinstallations, renovations or alterations to capital assets that materially increase their value or useful life.”⁵⁷

Municipalities must use the eligibility criteria for CWSRF and DWSRF in conjunction with any other restrictions from the Interim Final Rule to make their own eligibility determination.⁵⁸ For further clarity regarding specific project eligibility for these programs, we recommend reaching out to the EPA.

A wide range of broadband-related infrastructure projects are also eligible for CLFRF program funds. Generally, broadband infrastructure projects must be designed to reliably deliver minimum 100 Mbps download and upload speed (with upload speeds of 20 Mbps acceptable in certain circumstances) to unserved or underserved households or population (defined as those who currently have wireless connections of less than 25 Mbps for downloads and 3Mbps for uploads).⁵⁹ Either middle mile or last mile projects are eligible, with priority to be placed on achieving last mile connections.⁶⁰ There is no explicit distinction made between upgrades and maintenance, but projects funded under CLFRF broadband eligibility categories must meet these criteria.

Certain infrastructure projects may be eligible for CLFRF program funds if they are part of the “response to a specific pandemic-related public health need (e.g., investments in facilities for the delivery of vaccines) or a specific negative economic impact of the pandemic (e.g., affordable housing in a Qualified Census Tract).”⁶¹ In such cases, maintenance, improvements, or new capital investments may qualify so long as they have met the associated standard of a specific connection to an eligible use category such as those cited here.

Finally, recipients can use funds for the general provision of government services to the extent of the reduction in revenue due to the public health emergency. Maintenance of infrastructure or pay-go spending on new infrastructure would qualify so long as they are related to the provision of government services.⁶²

Premium Pay

30. What criteria should recipients use in identifying essential workers to receive premium pay? (Treasury FAQ 5.1)

Essential workers are those in critical infrastructure sectors who regularly perform in-person work, interact with others at work, or physically handle items handled by others.

⁵⁷ Environmental Protection Agency DWSRF Eligibility Handbook, pg 17, available at https://www.epa.gov/sites/default/files/2017-06/documents/dwsrf_eligibility_handbook_june_13_2017_updated_508_version.pdf

⁵⁸ Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions (as of July 19, 2021) – FAQ #6.1, available at: <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>. See also FAQ #2.15

⁵⁹ Ibid at FAQ #6.5

⁶⁰ Ibid at FAQ #6.10

⁶¹ Ibid at FAQ #4.2

⁶² Ibid at FAQ #4.2

Critical infrastructure sectors include healthcare, education and childcare, transportation, sanitation, grocery and food production, and public health and safety, among others, as provided in the Interim Final Rule. Governments receiving Fiscal Recovery Funds have the discretion to add additional sectors to this list, so long as the sectors are considered critical to protect the health and well-being of residents.

The Interim Final Rule emphasizes the need for recipients to prioritize premium pay for lower income workers. premium pay that would increase a worker's total pay above 150% of the greater of the state or county average annual wage requires specific justification for how it responds to the needs of these workers.⁶³

31. What is the time period for eligibility on premium pay?

The Interim Final Rule states "Fiscal Recovery Funds payments may be used by recipients to provide premium pay to eligible workers performing essential work during the COVID-19 public health emergency or to provide grants to third-party employers with eligible workers performing essential work"⁶⁴. The Treasury defines the start of the public health emergency as January 27, 2020.⁶⁵ premium pay may be paid either retroactively for eligible work already performed since the start of the public health emergency, or prospectively as eligible work continues to be performed until the end of the public health emergency (or December 31st, 2024, whichever is sooner).

While premium pay may be paid retrospectively since the start of the COVID-19 public health emergency, "the obligation to provide such pay must not have been incurred by the recipient prior to March 3, 2021."⁶⁶ As such, any commitment made by the recipient to provide premium pay prior to March 3, 2021 is not an eligible use for purposes of CLFRF.

Information regarding the thresholds of premium pay can be found in the U.S. Treasury's Interim Final Rule. The Interim Final Rule should be used as the first guide for determining eligible use of funds.

Public Health

32. What types of health equipment upgrades are an eligible use of funds under Public Health (e.g., ultraviolet machines, HVAC systems, UV lights)?

Responding to the COVID-19 Public Health Emergency is one of the key goals of the American Rescue Plan Act and the Coronavirus Local Fiscal Recovery Funds (CLFRF) program. Capital investments to mitigate COVID-19 in public facilities, and support for mitigation activities in critical congregate settings such as schools, homeless shelters, and nursing homes would generally be eligible uses under CLFRF. The CLFRF FAQ #2.1 states:

"A broad range of services are needed to contain COVID-19 and are eligible uses, including... support for prevention, mitigation, or other services in congregate living facilities (e.g.,

⁶³ Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions (as of July 19, 2021) – FAQ #5.1, available at: <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>.

⁶⁴ Interim Final Rule p. 12: <https://www.govinfo.gov/content/pkg/FR-2021-05-17/pdf/2021-10283.pdf>

⁶⁵ Ibid at pg 9.

⁶⁶ Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions (as of July 19, 2021) – FAQ #4.7, available at: <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>.

nursing homes, incarceration settings, homeless shelters, group living facilities) and other key settings like schools; [and] ventilation improvements in congregate settings, health care settings, or other key locations... Capital investments in public facilities to meet pandemic operational needs are also eligible, such as...adaptations to public buildings to implement COVID-19 mitigation tactics.”⁶⁷

33. May recipients use funds to pay for vaccine incentive programs (e.g., cash or in-kind transfers, lottery programs, or other incentives for individuals who get vaccinated)? (Treasury FAQ 2.12)

Yes. Under the Interim Final Rule, recipients may use Coronavirus State and Local Fiscal Recovery Funds to respond to the COVID-19 public health emergency, including expenses related to COVID-19 vaccination programs. See 31 CFR 35.6(b)(1)(i). Programs that provide incentives reasonably expected to increase the number of people who choose to get vaccinated, or that motivate people to get vaccinated sooner than they otherwise would have, are an allowable use of funds so long as such costs are reasonably proportional to the expected public health benefit.⁶⁸

Revenue Loss

34. Are recipients expected to demonstrate that reduction in revenue is due to the COVID-19 public health emergency? (3.6)

In the Interim Final Rule, any diminution in actual revenue calculated using Treasury’s revenue loss formula is presumed to have been “due to” the COVID-19 public health emergency. This presumption is made for administrative ease and in recognition of the broad-based economic damage that the pandemic has wrought.⁶⁹

35. Once a recipient has identified a reduction in revenue, are there any restrictions on how recipients use funds up to the amount of the reduction? (3.8)

The Interim Final Rule gives recipients broad latitude to use funds for the provision of government services to the extent of reduction in revenue. Government services can include, but are not limited to, maintenance of infrastructure or pay-go spending for building new infrastructure, including roads; modernization of cybersecurity, including hardware, software, and protection of critical infrastructure; health services; environmental remediation; school or educational services; and the provision of police, fire, and other public safety services.

However, paying interest or principal on outstanding debt, replenishing rainy day or other reserve funds, or paying settlements or judgments would not be considered provision of a government service, since these uses of funds do not entail direct provision of services to citizens. This restriction on paying interest or principal on any outstanding debt instrument, includes, for example, short-term revenue or tax anticipation notes, or paying fees or issuance costs associated with the issuance of new debt. In addition, the overarching restrictions on all program funds (e.g., restriction on pension deposits, restriction on using funds for non-federal match where barred by regulation or statute) would apply.⁷⁰

⁶⁷ Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions (as of July 19, 2021) – FAQ #2.1, available at: <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>.

⁶⁸ Ibid at FAQ #2.12

⁶⁹ Ibid at FAQ #3.6

⁷⁰ Ibid at FAQ #3.8

36. How do I know if a certain type of revenue should be counted for the purpose of computing revenue loss? (Treasury FAQ 3.9)

As discussed in Treasury’s FAQ #3.1, the Interim Final Rule adopts a definition of “General Revenue” that is based on, but not identical, to the Census Bureau’s concept of “General Revenue from Own Sources” in the Annual Survey of State and Local Government Finances.

Recipients should refer to the definition of “General Revenue” included in the Interim Final Rule. See 31 CFR 35.3. If a recipient is unsure whether a particular revenue source is included in the Interim Final Rule’s definition of “General Revenue,” the recipient may consider the classification and instructions used to complete the Census Bureau’s Annual Survey.

For example, parking fees would be classified as a Current Charge for the purpose of the Census Bureau’s Annual Survey, and the Interim Final Rule’s concept of “General Revenue” includes all Current Charges. Therefore, parking fees would be included in the Interim Final Rule’s concept of “General Revenue.”

The Census Bureau’s Government Finance and Employment Classification manual is available here.⁷¹

37. What is the formula for calculating the reduction in revenue? (Treasury FAQ 3.5)

A reduction in a recipient’s General Revenue equals:

$$\text{Max } \{ [\text{Base Year Revenue} * (1 + \text{Growth Adjustment})^{(nt/12)}] - \text{Actual General Revenue}_t ; 0 \}$$

Where:

Base Year Revenue is General Revenue collected in the most recent full fiscal year prior to the COVID-19 public health emergency.

Growth Adjustment is equal to the greater of 4.1 percent (or 0.041) and the recipient’s average annual revenue growth over the three full fiscal years prior to the COVID-19 public health emergency.

n equals the number of months elapsed from the end of the base year to the calculation date.

Actual General Revenue is a recipient’s actual general revenue collected during the 12-month period ending on each calculation date.

Subscript *t* denotes the calculation date.⁷²

Reporting

38. What data is required to be reported in the Annual Project and Expenditure Report?

⁷¹ Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions (as of July 19, 2021) – FAQ #3.9, available at: <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>.

⁷² Ibid at FAQ #3.5

Please refer to the State's [Reporting Guidance Document](#) for detailed information on Treasury's CLFRF reporting requirements.